



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990, c. S.5, AS AMENDED**

- and -

**IN THE MATTER OF
BENEDICT CHENG, FRANK SOAVE,
JOHN DAVID ROTHSTEIN AND ERIC TREMBLAY**

**STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES COMMISSION**

Staff of the Ontario Securities Commission (“Staff”) make the following allegations:

A. Overview

1. This case is about illegal insider tipping and trading, misleading statements made to Staff investigators, and breaches of confidentiality, involving some senior market participants.
2. In or about April 2014, Benedict Cheng (“Cheng”), in the course of his duties as a portfolio manager and Co-Chief Investment Officer at Aston Hill Asset Management Inc. (“AHAM”), became aware of generally undisclosed material facts (the “Material Facts”, described below) with respect to Amaya Gaming Group Inc. (now Amaya Inc.) (“Amaya”).
3. On June 11, 2014, while in a special relationship with Amaya, Cheng informed John David Rothstein (“Rothstein”) about some or all of the Material Facts and their source before they were generally disclosed, contrary to subsection 76(2) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”).

4. On June 11, 2014, Cheng instructed, encouraged and/or suggested to Rothstein that he inform others about the Material Facts and their source before they were generally disclosed, contrary to the public interest.
5. On June 11 and 12, 2014, while in a special relationship with Amaya, Rothstein informed Frank Soave (“Soave”) about some or all of the Material Facts and their source before they were generally disclosed, contrary to subsection 76(2) of the Act.
6. On June 11 and 12, 2014, respectively, while in a special relationship with Amaya, Rothstein and Soave traded in shares of Amaya with knowledge of some or all of the Material Facts before they were generally disclosed, contrary to subsection 76(1) of the Act.
7. In the course of its investigation, Staff examined Cheng, Soave, Rothstein and Eric Tremblay (“Tremblay”) under oath pursuant to subsection 13(1) of the Act. In the course of those examinations, Cheng, Soave and Tremblay made misleading statements to Staff on material matters and/or omitted facts required to make the statements not misleading, contrary to subsection 122(1)(a) of the Act.
8. Cheng disclosed to others (other than his counsel) the nature and/or content of the confidential summons he received from Staff on May 4, 2016, plus information about his confidential examination, contrary to section 16 of the Act.
9. Cheng instructed, encouraged and/or suggested to Rothstein what Rothstein’s evidence to Staff should be when examined under oath, contrary to the public interest.

B. The Respondents

10. In 2014, Cheng was the President of Aston Hill Financial Inc. (“AHF”) and the Co-Chief Investment Officer at AHF and AHAM. He was registered with the Ontario Securities Commission (the “Commission”) as a portfolio manager. He personally managed three funds which together had approximately \$3 billion in assets. Cheng completed the Canadian Securities Course in 1988, obtained a Bachelor of Commerce degree in 1989 and earned the CFA designation in 1994. Cheng has been registered with the Commission since at least 1997.

11. In 2014, Rothstein was a Senior Vice President and National Sales Manager at AHAM. Rothstein first became employed in the securities industry in 1996 after taking the Canadian Securities Course. In 2014, Rothstein reported to Cheng and Cheng was his boss.

12. In 2014, Soave was a First Vice President and Investment Advisor at CIBC Wood Gundy (“CIBC”). Soave first got registered with the Commission in 1990 as a registered representative of an investment dealer and has been registered for over 26 years. He has completed the Canadian Securities Course, the examination based on the Manual for Registered Representatives and the Partners, Directors and Senior Officers Course.

13. In 2014, Tremblay was the Chief Executive Officer of AHF, the Chairman of the Board of Directors of AHF and the ultimate designated person (UDP) of AHAM. He had been in these roles since 2006.

C. Background to the Allegations

14. In 2014:

- a. AHAM was a wholly-owned subsidiary of AHF. According to AHF’s Annual Information Form for the year ended December 31, 2014, in 2014:
 - i. AHF (through its subsidiaries) was engaged in the management, marketing, distribution and administration of mutual funds, closed-end funds, private equity funds, hedge funds and segregated institutional funds; and
 - ii. AHAM was a Toronto-based registered investment fund manager specializing in the development, sales and management of closed-end investment funds, open-end funds and hedge funds;
- b. AHF was a reporting issuer in Ontario with its shares publicly traded on the Toronto Stock Exchange (the “TSX”) under the symbol AHF;

- c. Amaya was an entertainment solutions provider for the regulated gaming industry and a reporting issuer in Ontario. Its shares traded on the TSX under the symbol AYA. In April 2014 Amaya had a market capitalization of approximately \$600 million; and
- d. Canaccord Genuity Group Inc. (“Canaccord”) was a Toronto-based financial services firm providing financial advice to Amaya.

15. On or about April 25, 2014, a representative of Canaccord invited AHAM to sign a non-disclosure agreement in order to attend a meeting to learn about an investment opportunity which, to pursue, would require AHAM to learn material, generally-undisclosed information about Amaya.

16. Cheng agreed to have AHF sign the non-disclosure agreement on behalf of AHAM, and on April 29, 2014 a representative of AHAM met with representatives of Canaccord and Amaya and learned about a proposed transaction whereby Amaya would acquire all of the issued and outstanding shares of Oldford Group Limited, the parent company of the owner and operator of the PokerStars and Full Tilt Poker brands in a transaction valued at over US\$4 billion (the “Acquisition”). The proposed transaction was a material fact in respect of Amaya.

17. The investment opportunity was for funds managed by AHAM to participate in financing the Acquisition (together with significant debt and new Amaya shares to be issued at \$20 per share). The price for Amaya shares closed on the TSX on April 29, 2014 at \$6.82 per share. Amaya’s intention to issue new shares at \$20 per share represented a significant premium over the then market price for those shares, and was also a material fact in respect of Amaya.

18. Two funds managed by Cheng agreed to participate in financing the Acquisition and, from that time until the Acquisition was announced, Cheng knew the material terms of the Acquisition before they were generally disclosed.

19. In particular, Cheng knew the following Material Facts before the Acquisition was generally disclosed on June 12, 2014:

- a. Amaya was going to purchase the ultimate owner and operator of the PokerStars and Full Tilt Poker brands in a transaction valued at over US\$4 billion;
- b. the Acquisition was confidential and not yet generally disclosed;
- c. the Acquisition would be announced that day after market close;
- d. AHAM was providing partial financing for the Acquisition (i.e., funds managed by Cheng were providing partial financing for the Acquisition);
- e. Amaya would be issuing new shares at \$20 per share to help pay for the Acquisition; and
- f. \$20 per share represented a premium of approximately 66% per Amaya share over the then market price for those shares.

D. Cheng informs Rothstein of some or all of the undisclosed Material Facts and their source

20. On June 11, 2014 at or about 12:12pm, Cheng sent an email to Rothstein inviting him to come to one of the AHAM boardrooms.

21. Rothstein met Cheng in the boardroom as instructed. Contrary to subsection 76(2) of the Act, Cheng proceeded to inform Rothstein of some or all of the undisclosed Material Facts, including that:

- a. Amaya was about to acquire the PokerStars and Full Tilt Poker brands in a major transaction;
- b. the Acquisition was confidential and not yet generally disclosed;
- c. public announcement of the Acquisition was imminent; and
- d. Cheng was aware of these facts because AHAM was participating in the Acquisition.

22. Rothstein understood that the Acquisition would cause the price for Amaya shares to increase significantly. Also at the meeting, Cheng instructed, encouraged and/or suggested to Rothstein to inform others, who had lost money on certain other investments promoted by AHF and/or AHAM, about the Acquisition before it was announced. Rothstein understood that the purpose of providing them with the material, undisclosed information was to make up for these losses.

23. Rothstein agreed to follow Cheng's instructions, encouragement and/or suggestion.

E. Rothstein informs Soave of some or all of the undisclosed Material Facts and their source

24. Shortly after his boardroom discussion with Cheng on June 11, 2014, Rothstein tried to contact individuals who had losses on investments that had been promoted by AHF and/or AHAM in order to inform them about the Acquisition before it was announced. Rothstein connected with one individual – Soave.

25. At about 4pm on June 11, 2014, Rothstein texted to Soave "AYA". Soave texted back "Sorry never owned it should I". A few minutes later Rothstein texted back "Yes".

26. Rothstein called Soave the morning of June 12, 2014. During that telephone call Rothstein informed Soave of some or all of the Material Facts, including that:

- a. Amaya was about to announce a major transaction that would be significantly positive for its share price (i.e., the Acquisition);
- b. the Acquisition was confidential and not yet generally disclosed;
- c. public announcement of the Acquisition was imminent;
- d. the information came from Cheng who was aware of these facts because AHAM was participating in the Acquisition; and
- e. Cheng had instructed him to share this confidential information about the Acquisition with Soave as a make up for other losses.

27. Soave asked Rothstein who else was involved in providing financing for the Acquisition. As Rothstein did not then know the answer to that question, he agreed to make inquiries and get back to Soave.

28. At approximately 10:15am on June 12, 2014, Soave sent an email to Rothstein stating “Thanks”. At approximately 10:18am, Rothstein replied by email with “Blackrock, blackstone and another huge one behind it.”

29. In 2014, BlackRock Inc. and The Blackstone Group L.P. were very large U.S. based asset managers with trillions of dollars under management. It would later be publicly disclosed that both of these companies provided financing to Amaya to help pay for the Acquisition.

30. Rothstein informing Soave of some or all of the Material Facts and their source before they were generally disclosed was contrary to subsection 76(2) of the Act.

F. Soave trades in Amaya shares with knowledge of the undisclosed Material Facts and their source

31. At approximately 10:35am on June 12, 2014, Soave placed an order to purchase and that day did purchase 5,000 shares of Amaya at \$12.10 per share at CIBC for a total investment of \$60,755 (including commission).

32. Trading in the shares of Amaya was halted less than two hours later at 12:22pm.

33. At approximately 1:23pm, Soave sent a text to Rothstein stating “Wholy Shit” (sic).

34. The Acquisition was announced that evening at approximately 9pm. The price for Amaya shares opened on the TSX the next morning at \$19.05 per share, an increase of approximately 57% relative to Soave’s purchase price the day before.

35. Soave sold all his Amaya shares on June 13, 2014 at an average price of \$19.78 per share for total proceeds of \$98,921 (net of commission) – a profit of \$38,166, or a return of approximately 63% over 1 day. Soave had never purchased Amaya shares before.

36. On June 13, 2014, after the bulk of his Amaya shares had been sold, Soave texted “Thank you” to Rothstein. Rothstein replied “Unbelievable”.

37. Soave’s purchase of Amaya shares on June 12, 2014 was an insider trade contrary to subsection 76(1) of the Act.

G. Rothstein trades in Amaya shares with knowledge of the undisclosed Material Facts and their source

38. On June 11, 2014 at about 2:49pm, approximately 2.5 hours after speaking to Cheng about Amaya in the boardroom, Rothstein entered an order to purchase and did purchase 700 shares of Amaya at \$11.875 per share in an account in trust for his children at BMO InvestorLine for a total investment of \$8,322 (including commission).

39. Amaya announced the Acquisition the next day. The price for Amaya shares opened on the TSX on June 13, 2014 at \$19.05 per share, an increase of approximately 60% relative to Rothstein’s purchase price two days prior.

40. Rothstein sold his Amaya shares on June 13, 2014 at \$19.77 per share for total proceeds of \$13,829 (net of commission) – a profit of \$5,507, or a return of approximately 66% over 2 days. Rothstein had never purchased Amaya shares before.

41. Rothstein’s purchase of Amaya shares on June 11, 2014 was an insider trade contrary to subsection 76(1) of the Act.

H. Misleading Statements

(a) Cheng’s Misleading Statements

42. During his compelled examination with Staff, Cheng made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading. In particular, Cheng misled Staff by, among other things:

- a. denying that he informed Rothstein of some or all of the Material Facts before they were generally disclosed;
- b. claiming that his June 11, 2014 meeting with Rothstein had nothing to do with Amaya; and
- c. claiming not to know anything about Rothstein informing Soave about some or all of the Material Facts before they were generally disclosed.

43. These statements were materially misleading and were not corrected by Cheng until he was confronted with evidence to the contrary, or at all. These statements concealed the truth, which was that Cheng informed Rothstein about some or all of the Material Facts, and that Cheng instructed, encouraged and/or suggested to Rothstein that he inform others about some or all of the Material Facts.

44. Cheng's conduct in making misleading statements to Staff was a breach of subsection 122(1)(a) of the Act.

(b) Soave's Misleading Statements

45. During his compelled examination with Staff, Soave made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

46. In particular, Soave misled Staff by, among other things:

- a. denying that Rothstein informed him of some or all of the Material Facts;
- b. denying that he purchased shares of Amaya because of the Material Facts about which Rothstein had informed him;

- c. claiming falsely that he purchased Amaya shares in June 2014 because of rumours in the marketplace and because of movement in the price and volume of the shares; and
- d. providing false explanations for texts and emails he sent.

47. These statements were materially misleading and were not corrected by Soave until he was confronted with evidence to the contrary, or at all. These statements concealed the truth, which was that Rothstein informed Soave about some or all of the Material Facts and that Soave purchased shares of Amaya because of that generally undisclosed information.

48. Soave's conduct in making misleading statements to Staff was a breach of subsection 122(1)(a) of the Act.

(c) Tremblay's Misleading Statements

49. During his compelled examinations with Staff, Tremblay made numerous statements that, in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading.

50. In particular, Tremblay misled Staff by, among other things:

- a. disavowing any knowledge of Cheng informing Rothstein about some or all of the Material Facts before they were generally disclosed;
- b. disavowing any knowledge of Cheng instructing, encouraging or suggesting to Rothstein that he inform others about the Material Facts before they were generally disclosed;
- c. disavowing any knowledge that Rothstein informed Soave about some or all of the Material Facts before they were generally disclosed; and

- d. claiming that Rothstein told him that he purchased shares of Amaya because of information he heard from brokers.

51. These statements were materially misleading and were not corrected by Tremblay until he was confronted with evidence to the contrary, or at all. These statements concealed the truth, which was that Tremblay knew that:

- a. Cheng had informed Rothstein about some or all of the Material Facts before they were generally disclosed;
- b. Cheng had instructed, encouraged or suggested to Rothstein that he inform Soave about the Material Facts before they were generally disclosed;
- c. Rothstein did inform Soave of some or all of the Material Facts before they were generally disclosed; and
- d. Rothstein purchased shares of Amaya while in possession of some or all of the Material Facts he learned from Cheng, before they were generally disclosed.

52. Tremblay was the Chief Executive Officer of AHF, the Chairman of the Board of Directors of AHF and the ultimate designated person (UDP) of AHAM.

53. Tremblay's conduct in making misleading statements to Staff was a breach of subsection 122(1)(a) of the Act.

I. Cheng's Breaches of Confidentiality

(a) Disclosure of summons

54. On May 4, 2016, Staff served a summons on Cheng compelling him to attend for an interview with Staff pursuant to subsection 13(1) of the Act, and to provide documents relating to Amaya during the period September 1, 2013 to December 31, 2014. The cover letter to the summons explained the confidentiality requirements surrounding Staff's investigation as per section 16 of the Act, and reproduced the full text of that provision.

55. Notwithstanding the cover letter explaining the confidentiality requirements of the summons, Cheng informed others (other than his counsel) about the fact he had received a summons, and that it related to an investigation by the OSC into trading in the shares of Amaya.

56. Cheng's disclosures concerning the nature and/or content of the summons he received were contrary to section 16 of the Act.

(b) Disclosure of Staff examination

57. Staff examined Cheng on June 9, 2016. At the commencement and end of that examination, Cheng acknowledged that he understood the confidentiality of Staff's investigative process under section 16 of the Act. However, despite acknowledging his understanding, Cheng disclosed the nature and content of his compelled examination to others who were interviewed by Staff.

58. Cheng's disclosures to other witnesses include:

- a. that he had been examined by Staff of the OSC;
- b. questions asked by Staff and the answers given;
- c. documents referenced by Staff in the course of the examination; and
- d. names of individuals of interest to Staff.

59. By supplying this information, Cheng provided witnesses interviewed by Staff with an opportunity to tailor their evidence to his, thereby undermining Staff's ability to fulfill its statutory mandate.

60. Cheng's disclosures concerning Staff's confidential investigation were contrary to section 16 of the Act.

J. Conduct Contrary to the Public Interest

61. In 2016, in the course of Staff's investigation, Cheng instructed, encouraged and/or suggested to Rothstein (i) that he tell Staff, falsely, that he bought Amaya shares because of

rumours in the marketplace, and (ii) that he should deny he received information about the Acquisition from Cheng.

62. As a senior capital markets participant, Cheng was expected to adhere to a very high standard of behaviour. Cheng failed to adhere to that very high standard by providing the instruction, encouragement and/or suggestion to Rothstein that he should mislead Staff as to why he purchased Amaya shares on June 11, 2014. This conduct was contrary to the public interest.

63. The breaches of the Act alleged herein are also conduct contrary to the public interest.

64. Staff reserve the right to make such other allegations as Staff may advise and the Commission may permit.

DATED at Toronto, April 12, 2017.